Title: Approval to enter into a Section 75 agreement for the continued provision of a four-borough Emergency Duty Team for adult social care

Report of the Strategic Director, Service Development & Integration

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<th>Open Report</th>
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<td>Wards Affected: ALL</td>
<td>Key Decision: Yes</td>
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Sponsor:
Anne Bristow, Deputy Chief Executive and Strategic Director, Service Development & Integration

Summary:
For four years, the Council has collaborated with neighbouring boroughs in an agreement under Section 75 of the NHS Act 2006, for the provision of emergency duty social work services. These services answer urgent calls for social care assistance, typically around very urgent safeguarding matters or the failure of care packages which needs urgent attention. Critically, this service also provides out of hours urgent assessment services under the Mental Health Act 2007 where individuals are potentially subject to detention in hospital.

A substantial piece of work to reshape the service specification has been undertaken in collaboration with the four boroughs. Following that, a market testing exercise was worked through. The result is that an agreement has been reached with NELFT to continue to provide the service under the new specification and for an agreed price in line with previous commissioning.

This report therefore seeks delegated authority for the Strategic Director of Service Development & Integration to enter into the necessary Section 75 agreement to oversee the operation of the service for a further four years.

Recommendation(s)
The Health and Wellbeing Board is recommended to:

(i) Delegate authority to the Strategic Director of Service Development & Integration (and/or her successor), in consultation with the Cabinet Member for Social Care & Health Integration and the Director of Law & Governance, to enter into a Section 75 Agreement for the purposes of operating a shared Emergency Duty Team for Adult Social Care across Barking & Dagenham, Havering, Redbridge and Waltham Forest.
Reason(s)

It is essential that emergency duty social work functions are provided, and to do so as a single borough is prohibitive in terms of the costs involved in running a sustainable service. Extensive work has been done to refine the specification and to test the market in those available to operate the service. Agreement has been reached with NELFT for them to continue to operate the services on the four local authorities’ behalves, effective from 1 May 2018. Alternatives are not readily available for the coming year, and therefore approval is sought to formalise the agreement with NELFT. Given a positive assessment of both finance and quality, it is proposed to enter the agreement for the coming four years. There are no significant performance concerns with NELFT’s operation of the services under this partnership arrangement.
1 Introduction and Background

1.1 The Adult Emergency Duty Team (AEDT) Service provides out of hours emergency services for adult social care and mental health services across four local authorities: London Borough of Barking & Dagenham (LBBD), London Borough of Havering (LBH), London Borough of Redbridge (LBR) and London Borough of Waltham Forest (LBWF).

1.2 This fulfils all the parties’ statutory requirement to provide an emergency out of hours social work service for adult and mental health service user groups, including the provision of 24-hour Approved Mental Health Professionals (AMHPs). The AEDT has delegated authority to act on behalf of all parties within the agreed terms and conditions of a Section 75 agreement.

1.3 Until 2013, the service had been operating solely in Barking & Dagenham, but jointly with Children’s Services. In 2013, there was a recommendation from Ofsted to review the out of hours arrangements for children and adults, which had been in place as a joint Barking & Dagenham service across the two departments for over 10 years. The review identified that the service was no longer fit for purpose, in particular that it would be better to collaborate in a single adults’ service and a single children’s service across neighbouring partners, rather than continue to run the two services together in borough. This led to a collaborative initiative for the AEDT service between LBBD, LBH, LBR and LBWF.

1.4 A Section 75 Agreement was agreed on 1st April 2014 between Barking & Dagenham, Havering, Redbridge and Waltham Forest local authorities, and North East London NHS Foundation Trust (NELFT) for the provision of an Adult Emergency Duty Team (AEDT). The agreement included the pooling of functions, staff resources and funding in respect to out of hours emergency services for adult social care and mental health services.

1.5 The AEDT service is currently hosted by North East London Foundation Trust (NELFT) under the terms of a Section 75 Agreement which expired on 30 April 2017. The joint parties agreed that NELFT could continue to operate under the same terms and conditions of the original agreement made in 2014. The extension, initially for one further year, was necessary to enable a full review of the service and to inform re-commissioning decisions. A four Borough task and finish group was established to complete the review, led by LB Havering.

1.6 Continuing as a four-borough partnership was judged to have several benefits:

- Retaining the economies of scale gained by jointly commissioning the service;
- More efficient procurement process for the 4 Boroughs with one lead commissioner – stops the process being duplicated;
- Larger service with the same service specification across the 4 boroughs could increase market interest;
- Consistent service across neighbouring boroughs;
- Retain good joint commissioning relationship and arrangements across partner boroughs in line with other joint commissioning plans.
2 Outcome of the 2017/18 review

2.1 The Review was undertaken by officers from the four boroughs. The review found that the service was meeting statutory requirements; however, it identified that further development was required to achieve an improved and effective service.

2.2 Several stakeholders were approached for feedback. Focus groups were held and involved operational staff, care management, safeguarding, mental health and business support systems. Feedback indicated that the main issues experienced are regarding information sharing and transfer between AEDT and the four social care services. This was something which was considered when the new specification was developed.

2.3 A service user survey was completed across all four boroughs. Eleven questions were asked, and 25 responses were received. The key findings were:

- 80% of the respondents found it easy to contact the service;
- 96% felt they got a timely response;
- 84% were satisfied with the response they got from the service.

2.4 The review also took into account past qualitative experience of less-than-satisfactory responses by the service, but also acknowledged that the more recent history of the service had been of more positive performance.

3 Exploring the provider market and encouraging market interest

3.1 Several other London Boroughs were approached to establish who provides their service and if there are other providers in the market that could possibly provide the service. The outcome of this exercise was that all the Boroughs questioned are either providing the service in house or are in a partnership agreement with neighbouring Boroughs.

3.2 The result of this exercise was a mixed picture of local authority in-house and outsourced provision, and examples of similar shared arrangements between neighbouring boroughs. A number of respondents had taken the steps that have been taken locally, to separate out a children’s and adults’ EDT provision, although a number continued to run a joint service.

Formal market engagement

3.3 A PIN notice (Prior Information Notice) was issued on 25 October 2017, also being sent via the ADASS Commissioners’ Network. A PIN is mostly used by contracting authorities to provide suppliers with information that they are planning a procurement process within the next 12 months, and to seek feedback and information in order to inform the procurement documents.

3.4 The notice was given in quite general form; the incumbent provider expressed interest verbally, and no other organisation indicated an interest in bidding.

3.5 A second attempt, following some discussions with parties that were thought to potentially be interested, was made, with the issuing of a further PIN on 29 November 2017 asking for responses in writing by 21st December 2017. Crucially, this revised notice cited the intention that if only the current incumbent
notifies their interest, the contract will be awarded to them upon the basis of lack of wider market interest. The PIN also detailed that if other parties expressed initial interest, then an interim contract of six months would be awarded to allow time for a full procurement process to be undertaken.

3.6 Additionally, as part of procurement due diligence, the Contract Notice was published in the Official Journal of the European Union for 10 working days to inform the market that the contract will be awarded to the incumbent. No further challenge or interest was received.

4 Updating the existing specification

4.1 The Task and Finish Group have considered all the feedback gathered from each borough’s focus groups, and customer feedback. It has analysed the data which is presented at each S75 quarterly meeting. The performance measures are now more robust and stringent, and detailed reporting requirements have been clarified with the provider. These are grouped into the following areas:

- Outcomes;
- Utilisation;
- Performance;
- Quality;
- Value for Money Framework.

4.2 The Task and Finish Group will continue in its current format, supported by operational colleagues, to meet with NELFT to monitor and evaluate the service provided on the basis of the agreed performance and quality framework.

5 Recommissioning the Service

5.1 Following completion of the review and exhausting all attempts to tender the service, the outcome of market engagement demonstrated no interest in the contract from other parties other than NELFT. It has been agreed through the AEDT S75 Steering Group that the four boroughs will continue with the current pooled funding arrangement under the Section 75 agreement, and the service will be re-commissioned as a joint service across the four boroughs. The agreement will be proposed to run for four years.

5.2 There is a clear advantage for Barking & Dagenham, Havering and Redbridge in that NELFT continuing to operate the services maintains the integration that supports the direction of travel for the BHR Integrate Care Partnership. Additionally, in response to the PIN exercise, NELFT confirmed their acceptance of managing the service within the commissioners’ proposed budget envelope of ca. £500k (in fact the final cost is proposed at an annual value of £501,839). This contains some previously costs, which took the contract value to around £532k, and therefore represents a modest efficiency for commissioners.

5.3 The division of costs between authorities is currently in equal quarters, and the cost to Barking & Dagenham is therefore £125,460. This is in line with current budget provision. Payment is made quarterly. Commissioners have reviewed whether there is disparity in activity levels that might merit different contributions between commissioning authorities, and this continues to be ‘on the table’ for consideration.
At the present time, whilst Barking & Dagenham have lower overall activity, there is higher reliance on AMHP services, which generally have higher complexity and take greater resource. Therefore, the differentials are very small when considering the overall costs involved.

**Next steps and governance of the agreement**

5.4 It is essential that the borough has an effective and efficient out of hours social care service. After a period of activity which gave rise to concerns about performance reporting and the quality of response, NELFT have worked hard to improve the operation of the service, and there is broad satisfaction with the recent performance of the AEDT. Work to improve the clarity of purpose of the service by commissioners has also helped in this. All options having been explored to generate interest in the provision of this service, other than the current incumbent, it is clear that there is not significant competition in this market sector.

5.5 However, the exercise has been helpful in allowing commissioners to rethink and refresh the expectations of the service, and to contain the cost of its provision. Lessons learnt from the previous contract have been consolidated and written into the specification. All four boroughs will sign the agreement, together with the provider.

5.6 The agreement will continue to be overseen by an AEDT Section 75 Steering Group including representatives of the provider and all of the local authorities. The Barking & Dagenham Council formal representative on this group is Mark Tyson, Commissioning Director, Adults’ Care & Support, with Douglas Maitland-Jones, Head of Mental Health Services as deputy, and supported by Finance colleagues and Cathie Kelly, Commissioning Manager.

6 **Mandatory Implications**

**Joint Strategic Needs Assessment**

6.1 This is a four-year agreement effective from 1st May 2018. The JSNA does not explicitly identify the need for out of hours provision, but it is explicitly required to meet statutory duties, and implicitly dealt with in the JSNA’s consideration of the current and emerging levels of need in mental health services in particular.

**Joint Health and Wellbeing Strategy**

6.2 Again, whilst not currently explicitly dealt with in the JHWBS, the AEDT would respond to the recognition of need for emergency support to keep some of the most vulnerable members of our community well and safe.

**Integration**

6.3 The AEDT service will be an integrated service and continuing to provide it through NELFT across local boroughs will promote effective and integrated care and support as part of wider system integration.
Financial Implications
Financial Implications completed by Katherine Heffernan, Group Finance Manager

6.4 NELFT have been commissioned to manage the Adult Emergency Duty Team (AEDT) Service on behalf of four local authorities at a cost of £0.502m split equally. The cost to Barking & Dagenham will be £0.125m and this would be contained within current budgets held by the service.

Legal Implications
Legal Implications completed by Pamela Igbo, Contracts and Procurement Solicitor

6.5 Officers have sought to recommission this service by placing a Prior Information Notice in the OJEU publication. In doing so they have complied with the EU Treaty Principles of fairness and transparency which apply to all above threshold contracts for the provision of services which are likely to attract cross border interest. In this instance the advert has failed to yield any interest from the market and therefore the service will now be recommissioned with the incumbent service provider NELFT until 1 May 2020.